

This pamphlet has been prepared as a public service to provide an understanding of the duties and procedures of the Franklin County Probate Court. It is intended to be an overview only and should not be considered as a legal reference. Laws pertaining to these topics may change. Legal advice should be obtained from an attorney.

## **HISTORY OF THE PROBATE COURT**

The term "Probate" comes from the Latin word **Probare**, meaning, "to prove". Matters in early English religious courts were proven before an Ecclesiastical Judge. Early American Probate Courts are traced back to those English religious courts, which had jurisdiction over the probate of wills and administration of estates.

The first Probate Court in the United States was established in Massachusetts in 1784. Similar Courts were subsequently established in other states under the name of Surrogate, Orphan Courts, or Courts of the Ordinary. The Northwest Ordinance of 1787 provided for the first Probate Judge and Court in the Ohio Territory. Under the first Ohio Constitution written in 1802, the Court of Common Pleas had exclusive jurisdiction of probate matters. The Constitution of 1851 removed probate matters from the jurisdiction of Common Pleas Court and created a separate Probate Court in each county. Subsequent amendments to the Constitution in 1912, 1951, 1968, and 1973, and changes in the codified law in 1932 and 1976 have made the Probate Court what it is today; a separate division of the Court of Common Pleas.

## **COURT BUDGET**

The funds required for the daily operation of the Probate Court are provided through the General Fund of Franklin County as allocated by the County Commissioners. The Court returns a substantial amount of money to the General Fund through the collection of court costs and fees which are established by the Ohio legislature.

## **COURT JURISDICTION**

The jurisdiction of the Probate Court is defined in the Ohio Revised Code. The Code places many diverse duties upon the Court. The following is a brief outline and description of some of those duties.

## **ADMINISTRATION OF ESTATES**

The largest responsibility of the Court involves the supervision of decedents' estates. The Court's annual estate case load is over 8000 estates.

The Court supervises the estate administration by appointing an estate fiduciary (executor or administrator) when necessary, who must collect the assets of the decedent, pay all the legal obligations and debts of the decedent, and distribute the remaining assets to those who are entitled to inherit. Most full estates are closed within 6 months.

In Franklin County, approximately 70% of the estates are administered with the benefit of a decedent's will. This compares to a 30% national average. A properly drafted and executed will is beneficial and will allow the estate to be administered more efficiently. It is recommended that an attorney be consulted for the preparation of a will.

## **GUARDIANSHIPS**

Another major responsibility of the Probate Court is to protect those persons who cannot protect themselves such as adult mentally incompetent persons and minors. Those persons may not be able to protect their financial affairs and/or their person. To protect the interests of those persons, the Court appoints a guardian who is accountable to the Court for the management of the ward's estate and person. The Court's annual guardianship case load is over 7000 cases.

## **TRUSTS**

The Probate Court oversees numerous types of trusts including testamentary trusts which are established by a decedent's will, inter vivos trusts which are established by an individual during his or her lifetime, wrongful death trusts which are established by the Probate Court for the protection of minors who receive funds from the wrongful death of a relative, and supplemental needs trusts to provide a higher quality of life for the disabled.

## **MENTAL ILLNESS AND MENTAL RETARDATION**

The Probate Court oversees the involuntary civil commitment process of individuals who are alleged to be mentally ill or mentally retarded. The Court conducts hearings to determine whether the individual is subject to hospitalization and to determine the length and place of treatment. All patients involved have legal representation throughout the process. Approximately 500 commitment proceedings are conducted annually by the Court. These proceedings and records are confidential by law.

## **ADOPTIONS**

All adoptions filed in Franklin County must be finalized by the Probate Court. Those wishing to adopt are required to submit to a personal and home investigation regarding their suitability as adoptive parents. Approximately 700 adoptions are filed annually. The hearings and records are confidential by law.

## **BIRTH CERTIFICATES**

The Probate Court has the authority to correct birth certificates and to issue delayed birth certificates for those individuals born within the State of Ohio. Birth certificates for individuals born in Franklin County prior to 1908 may be obtained in the Probate Court. Birth certificates for individuals born after 1907 may be obtained from the division of vital statistics of the local or state board of health.

## **CHANGE OF NAME**

A Franklin County resident who desires to legally change his or her name must file an application in the Franklin County Probate Court. The Court hears name changes for both adults and minors. The person seeking the name change must be a resident of Franklin County for at least one year prior to filing the application. All matters are set for hearing and publication is required in all cases. More than 500 name changes are processed annually in the Probate Court.

## **MARRIAGE LICENSES**

Approximately 9,500 marriage licenses are issued annually by the Franklin County Probate Court to couples who desire to be married within the State of Ohio. Both applicants must appear in person at the Probate Court. The consent of the parents is normally required for minors. Positive identification is required in all cases. Same gender marriages are not permitted by Ohio law.

## **COURT OFFICERS**

### **PROBATE JUDGE**

The Honorable Lawrence A. Belskis is the Judge and Clerk of the Franklin County Probate Court. This Court of Common Pleas Judgeship is an elected position with a six year term. As the Clerk of the Probate Court, the Judge is responsible for keeping and maintaining all records and filings in the Probate Court.

## MAGISTRATES

Under Ohio Law, a Judge may appoint Magistrates, who are attorneys admitted to practice in this State, to handle certain cases filed with the Court. Due to its heavy case load, the Franklin County Probate Court uses Magistrates who assist the Judge in the operation of the Court. They hear cases and issue decisions which may become the Court's Order or be modified by the Judge upon review. Use of Magistrates has proven to be an efficient and effective means of handling the increasing volume of filings in the Franklin County Probate Court.

## DEPUTY CLERKS

The Ohio Constitution and the Ohio Revised Code authorizes the Probate Judge to appoint Deputy Clerks to assist in carrying out the business of the Court. The specific task of each clerk varies from that of issuing marriage licenses to handling and reviewing inventories and accounts. Each clerk is authorized to act in an official capacity to certify records and accept filings for the Probate Court.

## OTHER TYPES OF ACTIONS IN THE PROBATE COURT

Adult Protective Service Protective Orders  
Conservatorship  
Designation of Heirship  
Disinterment  
Guardianships of Minors  
Health Care Power of Attorney  
HIV Testing for Protection of Public Servants  
Issues Regarding Terminal Illness  
Minor Settlements  
Power of Attorney  
Presumption of Death  
Protective Services for Mentally Retarded Persons  
Transfer of Structured Settlements and  
Lottery Proceeds  
Tuberculosis Commitments  
Uniform Transfer to Minors  
Wrongful Death Settlements

## LEGAL PRACTICE IN THE PROBATE COURT

Legal practice in the Probate Court is restricted by law to attorneys who are licensed by the Supreme Court of Ohio. Due to the complexity of the law and desire to avoid costly errors, most individuals who have filings before the Court are represented by an attorney. Court employees are prohibited by statute from practicing law and cannot give legal advice.  
12/03



Dear Franklin County Resident:

The Policy of the Franklin County Probate Court is to fulfill its duties as efficiently and effectively as possible. I sincerely hope you find this brochure helpful and your experience with our Court will be both pleasant and successful.

A handwritten signature in dark ink, appearing to read "Lawrence A. Belskis".

**LAWRENCE A. BELSKIS, JUDGE**

FRANKLIN COUNTY  
COURT OF COMMON PLEAS  
PROBATE DIVISION

Franklin County Court House  
373 South High Street  
22nd Floor  
Columbus, OH 43215-6311

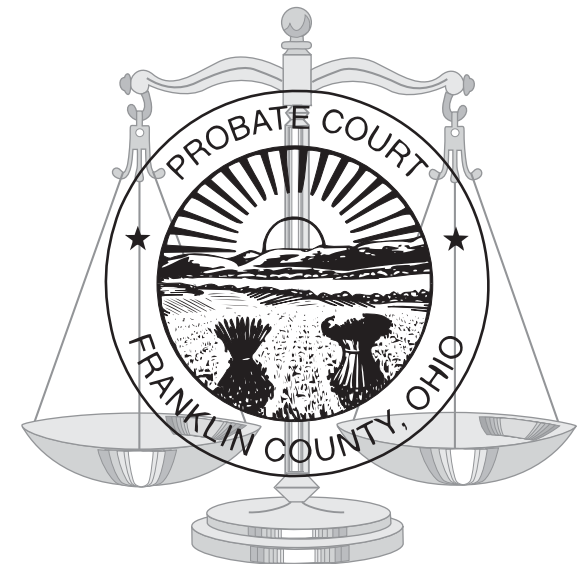
## HOURS

Monday - Friday: 8:00 A.M. to 5:00 P.M.  
(Cashier closes at 4:30 P.M.)

GENERAL INFORMATION.....462-3894

WEBSITE: [www.co.franklin.oh.us/probate](http://www.co.franklin.oh.us/probate)

# PROBATE COURT



Prepared and  
issued as a  
public service  
by

**JUDGE LAWRENCE A. BELSKIS**

**FRANKLIN COUNTY  
PROBATE COURT**